

compensation, the United States, at its option and at its own expense, may mitigate the damages by reconstructing the grantee's works to accommodate the Government facilities, or may provide other adequate mitigation measures for any damage to the grantee's property or right. The decision to compensate or mitigate is that of the appropriate Regional Director.

**§ 429.9 Hold harmless clause.**

(a) The following clause shall be a part of every land-use document issued by Reclamation:

The grantee hereby agrees to indemnify and hold harmless the United States, its employees, agents, and assigns from any loss or damage and from any liability on account of personal injury, property damage, or claims for personal injury or death arising out of the grantee's activities under this agreement.

(b) To meet local and special conditions, the Regional Director, upon advice of the Solicitor, may modify this or any other provision of these rules with respect to the contents of the right-of-use instrument.

**§ 429.10 Decisions and appeals.**

(a) The Regional Director, acting as designee of the Commissioner, shall make the determinations required under these rules and regulations. A party directly affected by such determinations may appeal in writing to the Commissioner, Bureau of Reclamation, within 30 days of receipt of the Regional Director's determinations. The affected party shall have an additional 30 days thereafter within which to submit a supporting brief memorandum to the Commissioner. The Regional Director's determinations will be held in abeyance until the Commissioner has reviewed the matter and rendered a decision.

(b) Any party to a case adversely affected by final decision of the Commissioner of the Bureau of Reclamation, under this part, shall have a right of appeal to the Director, Office of Hearing and Appeals, Office of the Secretary, in accordance with the procedures in title 43 CFR part 4, subpart G.

**§ 429.11 [Reserved]**

**§ 429.12 Applicability.**

(a) This part 429 applies to any possession or occupancy of Reclamation facilities, lands, or waterbodies.

(b) This part 429 does not apply to the use of Reclamation lands for transitory activities such as hiking, camping, sightseeing, picnicking, hunting, swimming, boating, fishing, and other personal recreational pursuits. These activities are governed by 43 CFR part 423, Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies.

(c) This part does not apply to leasing Reclamation lands for grazing, agriculture, or any other purposes where a greater return will be realized by the United States through a competitive bidding process.

(d) This part does not apply to interests issued or granted for the replacement or relocation of facilities belonging to others under section 14 of the Reclamation Project Act of August 4, 1939, 43 U.S.C. 389.

(e) This part does not apply to archaeological resources or archaeological resources management activities that are governed by the Archaeological Resources Protection Act (Pub. L. 96-95), 43 CFR part 7, and 43 CFR part 423.

[71 FR 19802, Apr. 17, 2006]

**§ 429.13 General restrictions.**

You must not possess or occupy, or extract or remove natural resources from Reclamation facilities, lands, or waterbodies unless you obtain a right-of-use in accordance with this part 429 or under other written agreement with Reclamation.

[71 FR 19802, Apr. 17, 2006]

**PART 430—RULES FOR MANAGEMENT OF LAKE BERRYESSA**

AUTHORITY: Title VII, Pub. L. 93-493, 88 Stat. 1494.